

amended
SUMMONS
(CITACION JUDICIAL)

to file

SUM-100

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):
CITY OF SAN JOSE

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

Stand for San Jose; Eileen Hannan; Michelle Brenot; Robert Brown; and
Robert Shields

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

(ENDORSED)

FILED

AUG 01 2013

DAVID H. YAMASAKI
Chief Executive Officer/Clerk
Superior Court of CA, County of Santa Clara

By T. Gacil Deputy

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):

Santa Clara County Superior Court
191 N. First Street, San Jose, CA 95113

CASE NUMBER:
(Número del caso)
113CV250372

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
RONALD E. VAN BUSKIRK, 4 Embarcadero Ctr., Fl 22, San Francisco, CA 94111 (415) 983-1000

DATE: August 1, 2013
(Fecha)

DAVID H. YAMASAKI Clerk, by
AUG 01 2013 Chief Executive Officer/Clerk (Secretario)

T. Gacil Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons. (FOS-010)).

(SEAL)

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify): City of San Jose

under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)

- ☒ other (specify): Public Entity, CCP 416.50

4. ☒ by personal delivery on (date): (see attached)

COPY

SUMMONS
(CITACION JUDICIAL)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

CITY OF SAN JOSE

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

STAND FOR SAN JOSE, ET AL.

SUM-100

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

(ENDORSED)

FILED
JUL 30 2013

DAVID H. YAMASAKI
Chief Executive Officer/Clerk
Superior Court - CA, County of Santa Clara
By T. Gagliardi Deputy

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(Número del Caso)
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The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

RONALD E. VAN BUSKIRK, 4 Embarcadero Ctr., Fl 22, San Francisco, CA 94111 (415) 983-1000

DAVID H. YAMASAKI

Chief Executive Officer/Clerk

Clerk, by
(Secretario)

T. Gagliardi, Deputy
(Adjunto)

DATE: July 30, 2013
(Fecha)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

(SEAL)

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under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
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☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☒ other (specify): Public Entity, CCP 416.50
4. ☒ by personal delivery on (date): (see attached)

COPY

ATTORNEY OR PARTY WITHOUT ATTORNEY (Print name, State Bar number, if applicable) RONALD E. VAN BUSKIRK (SBN 64683) Pillsbury Winthrop Shaw Pittman, LLP 4 Embarcadero Cir., Fl 22, San Francisco, CA 94111 TELEPHONE NO: 415.983.1000 FAX NO: 415.983.1200 ATTORNEY FOR (Name): STAND FOR SAN JOSE et al.		FOR COURT USE ONLY JUL 31 2013 [Stamp: Filed for Court] [Stamp: Mendocino]
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Santa Clara STREET ADDRESS: 191 N. First Street MAILING ADDRESS: CITY AND ZIP CODE: San Jose, CA 95113 BRANCH NAME: Downtown		
CASE NAME: Stand for San Jose v. City of San Jose et al.		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less) Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)		
		CASE NUMBER 113CV250372 JUDGE: DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PIP/D/W/D (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PIP/D/W/D (23) Non-PIP/D/W/D (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PIP/D/W/D tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input checked="" type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (26) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

a. <input type="checkbox"/> Large number of separately represented parties	d. <input type="checkbox"/> Large number of witnesses
b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve	e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
c. <input type="checkbox"/> Substantial amount of documentary evidence	f. <input type="checkbox"/> Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive

4. Number of causes of action (specify): **4**

5. This case ☐ is ☒ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: July 30, 2013
 Ronald E. Van Buskirk

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

COPY

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort	Contract	Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400-3.403)
Auto (22)-Personal Injury/Property Damage/Wrongful Death	Breach of Contract/Warranty (06)	Antitrust/Trade Regulation (03)
Uninsured Motorist (46) (if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)	Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction)	Construction Defect (10)
	Contract/Warranty Breach-Seller Plaintiff (not fraud or negligence)	Claims Involving Mass Tort (40)
	Negligent Breach of Contract/Warranty	Securities Litigation (28)
Other PUPD/WD (Personal Injury/Property Damage/Wrongful Death) Tort	Other Breach of Contract/Warranty	Environmental/Toxic Tort (30)
Asbestos (04)	Collections (e.g., money owed, open book accounts) (08)	Insurance Coverage Claims (arising from provisionally complex case type listed above) (41)
Asbestos Property Damage	Collections Case-Seller Plaintiff	Enforcement of Judgment
Asbestos Personal Injury/Wrongful Death	Other Promissory Note/Collections Case	Enforcement of Judgment (20)
Product Liability (not asbestos or toxic/environmental) (24)	Insurance Coverage (not provisionally complex) (18)	Abstract of Judgment (Out of County)
Medical Malpractice (45)	Auto Subrogation	Confession of Judgment (non-domestic relations)
Medical Malpractice-Physicians & Surgeons	Other Coverage	Sister State Judgment
Other Professional Health Care Malpractice	Other Contract (37)	Administrative Agency Award (not unpaid taxes)
Other PUPD/WD (23)	Contractual Fraud	Petition/Certification of Entry of Judgment on Unpaid Taxes
Premises Liability (e.g., slip and fall)	Other Contract Dispute	Other Enforcement of Judgment Case
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)	Real Property	Miscellaneous Civil Complaint
Intentional Infliction of Emotional Distress	Eminent Domain/Inverse Condemnation (14)	RICO (27)
Negligent Infliction of Emotional Distress	Wrongful Eviction (33)	Other Complaint (not specified above) (42)
Other PUPD/WD	Other Real Property (e.g., quiet title) (26)	Declaratory Relief Only
Non-PUPD/WD (Other) Tort	Writ of Possession of Real Property	Injunctive Relief Only (non-harassment)
Business Tort/Unfair Business Practice (07)	Mortgage Foreclosure	Mechanics Lien
Civil Rights (e.g., discrimination, false arrest) (not civil harassment) (08)	Quiet Title	Other Commercial Complaint Case (non-tort/non-complex)
Defamation (e.g., slander, libel) (13)	Other Real Property (not eminent domain, landlord/tenant, or foreclosure)	Other Civil Complaint (non-tort/non-complex)
Fraud (16)	Unlawful Detainer	Miscellaneous Civil Petition
Intellectual Property (19)	Commercial (31)	Partnership and Corporate Governance (21)
Professional Negligence (25)	Residential (32)	Other Petition (not specified above) (43)
Legal Malpractice	Drugs (38) (if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)	Civil Harassment
Other Professional Malpractice (not medical or legal)	Judicial Review	Workplace Violence
Other Non-PUPD/WD Tort (35)	Asset Forfeiture (05)	Elder/Dependent Adult Abuse
Employment	Petition Re: Arbitration Award (11)	Election Contest
Wrongful Termination (36)	Writ of Mandate (02)	Petition for Name Change
Other Employment (15)	Writ-Administrative Mandamus	Petition for Relief From Late Claim
	Writ-Mandamus on Limited Court Case Matter	Other Civil Petition
	Writ-Other Limited Court Case Review	
	Other Judicial Review (39)	
	Review of Health Officer Order	
	Notice of Appeal-Labor Commissioner Appeals	

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA
ALTERNATIVE DISPUTE RESOLUTION
INFORMATION SHEET / CIVIL DIVISION

Many cases can be resolved to the satisfaction of all parties without the necessity of traditional litigation, which can be expensive, time consuming, and stressful. The Court finds that it is in the best interests of the parties that they participate in alternatives to traditional litigation, including arbitration, mediation, neutral evaluation, special masters and referees, and settlement conferences. Therefore, all matters shall be referred to an appropriate form of Alternative Dispute Resolution (ADR) before they are set for trial, unless there is good cause to dispense with the ADR requirement.

What is ADR?

ADR is the general term for a wide variety of dispute resolution processes that are alternatives to litigation. Types of ADR processes include mediation, arbitration, neutral evaluation, special masters and referees, and settlement conferences, among others forms.

What are the advantages of choosing ADR instead of litigation?

ADR can have a number of advantages over litigation:

- < ADR can save time. A dispute can be resolved in a matter of months, or even weeks, while litigation can take years.
- < ADR can save money. Attorney's fees, court costs, and expert fees can be reduced or avoided altogether.
- < ADR provides more participation. Parties have more opportunities with ADR to express their interests and concerns, instead of focusing exclusively on legal rights.
- < ADR provides more control and flexibility. Parties can choose the ADR process that is most likely to bring a satisfactory resolution to their dispute.
- < ADR can reduce stress. ADR encourages cooperation and communication, while discouraging the adversarial atmosphere of litigation. Surveys of parties who have participated in an ADR process have found much greater satisfaction than with parties who have gone through litigation.

What are the main forms of ADR offered by the Court?

- < Mediation is an informal, confidential, flexible and non-binding process in which the mediator helps the parties to understand the interests of everyone involved, and their practical and legal choices. The mediator helps the parties to communicate better, explore legal and practical settlement options, and reach an acceptable solution of the problem. The mediator does not decide the solution to the dispute; the parties do.

< Mediation may be appropriate when:

- < The parties want a non-adversary procedure
- < The parties have a continuing business or personal relationship
- < Communication problems are interfering with a resolution
- < There is an emotional element involved
- < The parties are interested in an injunction, consent decree, or other form of equitable relief

- < Neutral evaluation, sometimes called "Early Neutral Evaluation" or "ENE", is an informal process in which the evaluator, an experienced neutral lawyer, hears a compact presentation of both sides of the case, gives a non-binding assessment of the strengths and weaknesses on each side, and predicts the likely outcome. The evaluator can help parties to identify issues, prepare stipulations, and draft discovery plans. The parties may use the neutral's evaluation to discuss settlement.

Neutral evaluation may be appropriate when:

- < The parties are far apart in their view of the law or value of the case
- < The case involves a technical issue in which the evaluator has expertise
- < Case planning assistance would be helpful and would save legal fees and costs
- < The parties are interested in an injunction, consent decree, or other form of equitable relief

-over-

< Arbitration is a less formal process than a trial, with no jury. The arbitrator hears the evidence and arguments of the parties, then makes a written decision. The parties can agree to binding or non-binding arbitration. In binding arbitration, the arbitrator's decision is final and completely resolves the case, without the opportunity for appeal. In non-binding arbitration, the arbitrator's decision could resolve the case, without the opportunity for appeal, unless a party timely rejects the arbitrator's decision within 30 days and requests a trial. Private arbitrators are allowed to charge for their time.

Arbitration may be appropriate when:

- < The action is for personal injury, property damage, or breach of contract
- < Only monetary damages are sought
- < Witness testimony, under oath, needs to be evaluated
- < An advisory opinion is sought from an experienced litigator (if a non-binding arbitration)

< Civil Judge ADR allows parties to have a mediation or settlement conference with an experienced judge of the Superior Court. Mediation is an informal, confidential, flexible and non-binding process in which the judge helps the parties to understand the interests of everyone involved, and their practical and legal choices. A settlement conference is an informal process in which the judge meets with the parties or their attorneys, hears the facts of the dispute, helps identify issues to be resolved, and normally suggests a resolution that the parties may accept or use as a basis for further negotiations. The request for mediation or settlement conference may be made promptly by stipulation (agreement) upon the filing of the Civil complaint and the answer. There is no charge for this service.

Civil Judge ADR may be appropriate when:

- < The parties have complex facts to review
- < The case involves multiple parties and problems
- < The courthouse surroundings would be helpful to the settlement process

< Special masters and referees are neutral parties who may be appointed by the court to obtain information or to make specific fact findings that may lead to a resolution of a dispute.

Special masters and referees can be particularly effective in complex cases with a number of parties, like construction disputes.

< Settlement conferences are informal processes in which the neutral (a judge or an experienced attorney) meets with the parties or their attorneys, hears the facts of the dispute, helps identify issues to be resolved, and normally suggests a resolution that the parties may accept or use as a basis for further negotiations.

Settlement conferences can be effective when the authority or expertise of the judge or experienced attorney may help the parties reach a resolution.

What kind of disputes can be resolved by ADR?

Although some disputes must go to court, almost any dispute can be resolved through ADR. This includes disputes involving business matters; civil rights; collections; corporations; construction; consumer protection; contracts; copyrights; defamation; disabilities; discrimination; employment; environmental problems; fraud; harassment; health care; housing; insurance; intellectual property; labor; landlord/tenant; media; medical malpractice and other professional negligence; neighborhood problems; partnerships; patents; personal injury; probate; product liability; property damage; real estate; securities; sports; trade secret; and wrongful death, among other matters.

Where can you get assistance with selecting an appropriate form of ADR and a neutral for your case, information about ADR procedures, or answers to other questions about ADR?

Contact:

Santa Clara County Superior Court
ADR Administrator
408-882-2530

Santa Clara County DRPA Coordinator
408-792-2704

ALTERNATIVE DISPUTE RESOLUTION INFORMATION SHEET/ CIVIL DIVISION

1 PILLSBURY WINTHROP SHAW PITTMAN LLP
2 RONALD E. VAN BUSKIRK (SBN 64683)
3 BLAINE I. GREEN (SBN 193028)
4 STACEY C. WRIGHT (SBN 233414)
5 Four Embarcadero Center, 22nd Floor
6 Post Office Box 2824
7 San Francisco, CA 94126-2824
8 Telephone: (415) 983-1000
9 Facsimile: (415) 983-1200

10 Attorneys for Petitioners and Plaintiffs,
11 STAND FOR SAN JOSE, EILEEN HANNAN,
12 MICHELLE BRENOT, ROBERT BROWN,
13 and ROBERT SHIELDS

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA

15 IN AND FOR THE COUNTY OF SANTA CLARA

16 STAND FOR SAN JOSE; EILEEN
17 HANNAN; MICHELLE BRENOT;
18 ROBERT BROWN; and ROBERT
19 SHIELDS,

20 Petitioners and Plaintiffs,

21 vs.

22 CITY OF SAN JOSE; CITY COUNCIL OF
23 THE CITY OF SAN JOSE; SUCCESSOR
24 AGENCY TO THE REDEVELOPMENT
25 AGENCY OF THE CITY OF SAN JOSE;
26 SUCCESSOR AGENCY OVERSIGHT
27 BOARD; DIRIDON DEVELOPMENT
28 AUTHORITY; DOES 1 through 10,
inclusive,

Respondents and Defendants.

ATHLETICS INVESTMENT GROUP LLC;
DOES 11 through 20, inclusive,

Real Parties in Interest.

(ENDORSED)
FILED
JUL 30 2013
DAVID H. YAMASAKI
Chief Executive Officer/Clerk
Superior Court of CA, County of Santa Clara
By T. Gagliardi Deputy

Case No. 113CV250372

VERIFIED PETITION FOR WRIT OF
MANDAMUS AND COMPLAINT
FOR DECLARATORY RELIEF AND
INJUNCTIVE RELIEF AND FOR
ATTORNEY'S FEES

Related to Case No. 111-CV-214196

[Health & Safety Code §§ 34161, et
seq. (Community Redevelopment
Law); San Jose Municipal Code § 4.95
(Public Vote for Sports Facility); Pub.
Res. Code §§ 21167, 21168, and
21168.5 (California Environmental
Quality Act); C.C.P. § 526a (Illegal
Sale of Public Property); C.C.P. §§
1085 and 1094.5]

COPY

1 Petitioners and Plaintiffs, Stand for San Jose (“SFSJ”), Eileen Hannan, Michelle
2 Brenot, Robert Brown, and Robert Shields (collectively, “Petitioners”), hereby petition for
3 a writ of mandamus and complain for declaratory and injunctive relief and for attorney’s
4 fees against Respondents and Defendants, the City of San Jose (“City”), the City Council of
5 the City of San Jose (“City Council”), the Successor Agency to the Redevelopment Agency
6 of the City of San Jose (“Successor Agency”), the Successor Agency Oversight Board
7 (“Oversight Board”), and the Diridon Development Authority (“DDA”) (collectively,
8 “Respondents”), and against Real Party in Interest, Athletics Investment Group LLC
9 (“AIG”), and for their petition and complaint allege as follows:

GENERAL ALLEGATIONS

1. This petition and complaint challenges certain actions taken by Respondents on or about June 18, 2013 and June 27, 2013, respectively, continuing the unlawful encumbrance of certain publicly-owned property with an unenforceable option agreement (the "Option Agreement") that purports to commit the City to sell the subject property to AIG for purposes of a private downtown baseball stadium project (the "Ballpark Project" or "Project"). In taking these actions, Respondents failed to comply with the State Controller's 2013 Asset Transfer Review Report, issued March 4, 2013 (the "State Controller's Report"), and a number of State and local laws, despite their legal duty to comply with that report and such laws, including the following:

- 20 (a) The California Community Redevelopment Law, Health & Safety Code
21 §§ 34161, *et seq.* (“Redevelopment Law”);
- 22 (b) San Jose Municipal Code § 4.95 (requiring a public vote before the City
23 participates, by using tax dollars, in developing a sports facility);
- 24 (c) The California Environmental Quality Act, Public Resources Code § 21000,
25 *et seq.* (“CEQA”); and
- 26 (d) Code of Civil Procedure § 526a (prohibiting the illegal expenditure of public
27 funds, or illegal sale or use of public property).

1 2. Respondents have pursued a baseball stadium project on public land for a
2 number of years, including the grant to AIG in 2011 of an exclusive Option Agreement to
3 buy six parcels of property in the Diridon Station Area of San Jose (the "Diridon Property"
4 or "Property") at a price that is now more than a 75% discount to fair market value. In
5 refusing to comply with State law and local law rendering the Option Agreement invalid,
6 Respondents the City and its agencies have abused their powers and violated their legal
7 duties.

8 3. Beginning in or about 2005, the San Jose Redevelopment Agency spent
9 \$25 million in tax-increment funds to acquire the various parcels that make up the Diridon
10 Property," and it commenced environmental review for a potential ballpark project on the
11 Property. In 2010, the City represented that there would be additional environmental
12 review "when we have a project" and promised a public vote "prior to . . . making any
13 decision as to a potential ballpark."

14 4. In an effort to avoid certain State legislation proposed in 2011 to dissolve
15 redevelopment agencies and require sale of redevelopment agency lands such as the
16 Diridon Property for core municipal purposes, the City and the Redevelopment Agency
17 formed the DDA as a joint powers authority and then transferred the Diridon Property to
18 the DDA at no cost. Once the new redevelopment law was passed, the City and others filed
19 a legal challenge in the California Supreme Court. On November 8, 2011, just two days
20 before arguments in the Supreme Court, the City Council and the DDA, in joint session,
21 voted to "tie up" the Diridon Property with the Option Agreement to sell the Property to
22 AIG. By "encumbering" the Property with an option granted to a private party,
23 Respondents hoped to avoid the re-transfer of the property mandated by the new law even if
24 the Supreme Court upheld the law.

25 5. Under the Option Agreement, the DDA committed to sell the Diridon
26 Property to AIG at far less than its market value. The Property, originally acquired for \$25
27 million and appraised at \$14 million at the time the Option Agreement was approved, is
28 now listed as having a 2013 book value of approximately \$29 million in the State

1 Controller's Report. Under the Option Agreement, the Property would be sold to AIG for
2 only \$6.9 million for the private ballpark use. Taxing entities that would receive
3 distributions from the Successor Agency upon a legitimate sale of the Property—free from
4 the unlawful encumbrance of the Option Agreement—would lose approximately \$22
5 million under the Option Agreement.

6 6. The State Controller's Report issued in March 2013 concluded that the
7 transfer of the Property to the DDA was unauthorized, and it ordered the City and the DDA
8 to transfer the Property back to the Successor Agency. Failing in their duty to comply with
9 the Redevelopment Law and the State Controller's Report, Respondents have transferred
10 less than the full fee interest and instead transferred the Property "subject" to the Option
11 Agreement. At the June 18, 2013 joint City Council/DDA/Successor Agency meeting, the
12 DDA adopted Resolution No. 111.1, and the Successor Agency adopted Resolution No.
13 7021, each providing that the Diridon Property be transferred to the Successor Agency
14 "subject to the terms and provisions of the Option Agreement" At that time the City
15 Council also adopted Resolution No. 76738 authorizing the transfer, but did not address the
16 Option Agreement or require the transfer to be unencumbered. Thereafter, on June 27,
17 2013, the Oversight Board failed in its legal duty to overturn the Successor Agency's
18 acceptance of the Property subject to the Option Agreement, which was improper because
19 the Option Agreement is not an enforceable obligation and is not binding on the Successor
20 Agency. In addition to violating the Redevelopment Law and the State Controller's Report,
21 Respondents undertook no effort to comply with CEQA or to hold a public vote before
22 taking their actions in furtherance of the Ballpark Project.

23 7. Accordingly, this petition and complaint seeks a writ of mandate and
24 declaratory relief adjudging that Respondents' transfer of the Diridon Property subject to
25 the Option Agreement was contrary to law, void, and of no legal effect; setting aside
26 Respondents' transfer of the Diridon Property to the extent it remains subject to the Option
27 Agreement; ordering that Respondents transfer the entire fee interest exclusive of and not
28 subject to the Option Agreement, as required under the Redevelopment Law; and

1 permanently enjoining Respondents from the sale of the Diridon Property to AIG pursuant
2 to the Option Agreement.

3 **PARTIES**

4 8. Petitioner and Plaintiff SFSJ is an unincorporated coalition, including
5 residents and taxpayers in San Jose and the County of Santa Clara, formed and dedicated to
6 addressing the risks to the environment and financial issues posed by the Ballpark Project.
7 Members of SFSJ reside and/or work in San Jose and Santa Clara County, including the
8 area of the proposed Ballpark Project, and will be affected by the Project's significant
9 environmental impacts. SFSJ's members are beneficially interested in the City's public
10 planning and environmental review processes, and seek to promote the public interest by
11 ensuring that environmental issues critical to taxpayers, jobs, local businesses and
12 neighborhoods are put first as the City evaluates proposed development projects that have
13 the potential to significantly affect the environment and the downtown area. SFSJ and its
14 members seek to ensure that before the Diridon Property is sold to a private party for a
15 ballpark use, the City's elected decision-makers—as well as the voting public—have all of
16 the environmental information required under CEQA and other information necessary to
17 make informed decisions for the sale of public lands and downtown development. SFSJ
18 members are interested as citizens and taxpayers in making sure that San Jose and its
19 agencies protect and promote the public interest by complying with State and local laws,
20 including CEQA, San Jose Municipal Code § 4.95, and the Redevelopment Law. In 2010-
21 2011, SFSJ submitted numerous written and oral comments to Respondents setting forth
22 their environmental and other objections to the Ballpark Project. In June 2013, SFSJ
23 submitted written and oral comments to Respondents setting forth objections to the
24 Successor Agency's determination that the Diridon Property should be accepted subject to
25 the Option Agreement and Respondents' treatment of the Option Agreement as a
26 continuing and enforceable obligation; and urging the Oversight Board to review and
27 overturn the Successor Agency's determination that the Diridon Property be accepted
28 subject to the Option Agreement.

1 9. Petitioner and Plaintiff Eileen Hannan ("Petitioner Hannan") is a resident,
2 voter, property owner, and taxpayer in the City of San Jose, and seeks to protect her
3 interests and the interests of those similarly situated in San Jose. Petitioner Hannan is
4 employed in San Jose, commutes in and around the City, and uses freeways and roadways
5 on a regular basis that will be impacted by the Ballpark Project. Petitioner Hannan is a
6 member and supporter of SFSJ, with similar interests and concerns as those alleged in
7 paragraph 8 above. Petitioner Hannan is beneficially interested in and affected by the
8 City's planning and environmental review processes, and seeks to promote the public
9 interest by ensuring that environmental issues critical to taxpayers, jobs, local businesses
10 and neighborhoods are considered in accordance with law; and that the City's elected
11 decision-makers, as well as the voting public, have all of the environmental information
12 required under CEQA and other information necessary to make informed decisions for the
13 sale of public lands for downtown development. Petitioner Hannan seeks through this
14 petition and complaint to protect the public interest by ensuring that San Jose and its
15 agencies comply with State and local laws, including CEQA, San Jose Municipal Code
16 § 4.95, and the Redevelopment Law.

17 10. Petitioner and Plaintiff Michelle Brenot ("Petitioner Brenot") is a resident,
18 voter, property owner, and taxpayer in the City of San Jose, and seeks to protect her
19 interests and the interests of those similarly situated in San Jose. Petitioner Brenot lives in
20 downtown San Jose, commutes from and around the City, and uses freeways and roadways
21 on a regular basis that will be impacted by the Ballpark Project. Petitioner Brenot is a
22 member and supporter of SFSJ, with similar interests and concerns as those alleged in
23 paragraph 8 above. Petitioner Brenot is beneficially interested in and affected by the City's
24 planning and environmental review processes, and seeks to promote the public interest by
25 ensuring that environmental issues critical to taxpayers, jobs, local businesses and
26 neighborhoods are considered in accordance with law; and that the City's elected decision-
27 makers, as well as the voting public, have all of the environmental information required
28 under CEQA and other information necessary to make informed decisions for the sale of

1 public lands for downtown development. Petitioner Brenot seeks through this petition and
2 complaint to protect the public interest by ensuring that San Jose and its agencies comply
3 with State and local laws, including CEQA, San Jose Municipal Code § 4.95, and the
4 Redevelopment Law.

5 11. Petitioner and Plaintiff Robert Brown ("Petitioner Brown") is a resident of
6 Santa Clara County, residing in Los Gatos, and employed in San Jose in proximity to the
7 proposed Ballpark Project site. Among other things, Petitioner Brown commutes to and
8 around San Jose, and uses freeways and roadways on a regular basis that will be adversely
9 impacted by the Ballpark Project. Petitioner Brown is beneficially interested in and
10 affected by the City's planning and environmental review processes, and seeks to promote
11 the public interest by ensuring that environmental issues critical to taxpayers, jobs, local
12 businesses and neighborhoods are considered in accordance with law; and that the City's
13 elected decision-makers, as well as the voting public, have all of the environmental
14 information required under CEQA and other information necessary to make informed
15 decisions for the sale of public lands for downtown development. Petitioner Brown seeks
16 through this petition and complaint to protect the public interest by ensuring that San Jose
17 and its agencies comply with State and local laws, including CEQA, San Jose Municipal
18 Code § 4.95, and the Redevelopment Law.

19 12. Petitioner and Plaintiff Robert Shields ("Petitioner Shields") is a resident,
20 voter, property owner, and taxpayer in the City of San Jose, and seeks to protect his
21 interests and the interests of those similarly situated in the City. Petitioner Shields resides
22 in San Jose, and uses freeways and roadways on a regular basis that will be impacted by the
23 Ballpark Project. Petitioner Shields is a member and supporter of SFSJ, with similar
24 interests and concerns as those alleged in paragraph 8 above. Petitioner Shields is
25 beneficially interested in and affected by the City's planning and environmental review
26 processes, and seeks to promote the public interest by ensuring that environmental issues
27 critical to taxpayers, jobs, local businesses and neighborhoods are considered in accordance
28 with law; and that the City's elected decision-makers, as well as the voting public, have all

1 of the environmental information required under CEQA and other information necessary to
2 make informed decisions for the sale of public lands for downtown development. Petitioner
3 Shields seeks through this petition and complaint to protect the public interest by ensuring
4 that San Jose and its agencies comply with State and local laws, including CEQA, San Jose
5 Municipal Code § 4.95, and the Redevelopment Law.

6 13. Respondent and Defendant City of San Jose is a charter city organized under
7 the constitution and laws of the State of California. Among other things, the City was
8 identified as the Lead Agency for the Ballpark Project in a Notice of Preparation for the
9 2010 SEIR, dated November 17, 2009, and in a Notice of Determination for approval of the
10 Option Agreement and sale of the Diridon Property for the Ballpark Project, dated
11 November 8, 2011. The City is principally responsible pursuant to CEQA for conducting a
12 legally-sufficient environmental review for the Ballpark Project, including preparation of
13 environmental documents (a) that accurately describe the Project, the environmental
14 baseline, and the potentially significant impacts of the Project; and (b) that evaluate
15 mitigation measures and/or alternatives to lessen or avoid any significant impacts. The
16 City, acting through the City Council and other agencies, is also responsible for approving
17 the Project in reliance on adequate environmental review under CEQA and in compliance
18 with all other applicable State and local laws, including the Redevelopment Law and San
19 Jose Municipal Code § 4.95.

20 14. Respondent and Defendant City Council is the duly-elected legislative body
21 of the City charged by law with a number of legal duties in respect to the Ballpark Project,
22 including complying with the requirements of CEQA and the San Jose Municipal Code.
23 The City Council is one of the decision-making agencies within the City for the sale of the
24 Diridon Property to AIG subject to the Option Agreement, and is responsible, in part, for
25 the actions and decisions of Respondents in approving the Ballpark Project at issue herein.

26 15. Respondent and Defendant Successor Agency to the Redevelopment Agency
27 of the City of San Jose is responsible for overseeing the winding down of redevelopment
28 activity at the local level under the Redevelopment Law, including managing

1 redevelopment projects currently underway, making payments on enforceable obligations,
2 and disposing of redevelopment assets and properties. On January 24, 2012, pursuant to the
3 Redevelopment Law dissolution legislation (AB X1 26 as amended by AB 1484), the City
4 of San Jose elected to be the Successor Agency to the Redevelopment Agency of the City
5 of San Jose. The Redevelopment Agency was officially dissolved as of February 1, 2012.

6 16. Respondent and Defendant Oversight Board of the Successor Agency to the
7 Redevelopment Agency of the City of San Jose supervises the work of the Successor
8 Agency. In the exercise of its oversight duties, the Oversight Board is required to ensure
9 that the Successor Agency complies with the Redevelopment Law, and has a fiduciary
10 responsibility to the local agencies that would benefit from property tax distributions from
11 the former redevelopment project area.

12 17. Respondent and Defendant DDA is a joint powers authority created by the
13 City and the Redevelopment Agency in March 2011 for the purpose, among others, of
14 holding title to the Diridon Property upon transfer from the Redevelopment Agency in an
15 effort to avoid the effects of the proposed changes to the Redevelopment Law. The DDA
16 was a party to the Option Agreement as approved in joint session with the City Council on
17 November 8, 2011. As heretofore alleged, the Option Agreement granted AIG an option to
18 purchase the Diridon Property from the DDA, subject to certain conditions, including that
19 the Property may be used only for a private ballpark and incidental uses.

20 18. Petitioners are unaware of the true names of Respondents and Defendants
21 sued as Does 1 through 10, inclusive. Petitioners are informed and believe, and on that
22 basis allege, that Respondents Does 1-10, inclusive, are individuals, entities or agencies
23 with authority to approve and/or with an interest in the Ballpark Project. When the true
24 identities and capacities of these Respondents have been determined, Petitioners will, with
25 leave of Court if necessary, amend this petition and complaint to insert such identities and
26 capacities.

27 19. Petitioners are informed and believe, and on that basis allege, that Real Party
28 in Interest AIG is an entity associated in some manner with the Oakland Athletics baseball

1 club. Among other things, AIG is the entity to whom the DDA granted the exclusive option
2 to purchase the Diridon Property as alleged herein.

3 20. Petitioners are unaware of the true names of Real Parties in Interest sued as
4 Does 11 through 20, inclusive. Petitioners are informed and believe, and on that basis
5 allege, that Real Party in Interest Does 11-20, inclusive, are individuals, entities or agencies
6 with authority to approve and/or with an interest in the Ballpark Project. When the true
7 identities and capacities of these Real Parties in Interest have been determined, Petitioners
8 will, with leave of Court if necessary, amend this petition and complaint to insert such
9 identities and capacities.

10 JURISDICTION AND VENUE

11 21. This Court has jurisdiction over this proceeding pursuant to Code of Civil
12 Procedure §§ 1085 and 1094.5, Public Resources Code §§ 21168 and 21168.5, and Article
13 VI, § 10 of the California Constitution.

14 22. Venue is proper in this Court pursuant to Code of Civil Procedure §§ 394
15 and 395, in that the causes of action alleged herein arose in Santa Clara County, where the
16 Ballpark Project is proposed for development and where Respondents took actions to
17 approve the Project and encumber the Property with the Option Agreement as alleged
18 herein.

19 BACKGROUND

20 Petitioners' Pending Lawsuit Challenging the Original Approval of the 21 Option Agreement

22 23. On December 2, 2011, Petitioners and Plaintiffs filed a prior lawsuit in this
23 Court (Case No. 111-CV-214196) challenging the actions taken by Respondents in
24 November 2011, in originally approving the Option Agreement and the sale thereunder of
25 the publicly-owned Diridon Property to AIG for the Ballpark Project. A Verified First
26 Amended Petition for Writ of Mandamus and Complaint for Declaratory and Injunctive
27 Relief and for Attorney's Fees was filed in that action on December 7, 2011.

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1 24. As alleged in Case No. 111-CV-214916, by approving the Option
2 Agreement, Respondents abused their discretion and failed to comply with law, in that they
3 failed to cure legal deficiencies in the 2007 environmental impact report ("2007 EIR") and
4 the 2010 supplemental environmental impact report ("2010 SEIR"); failed to update those
5 documents to address changed circumstances and significant new information; failed to
6 hold a public vote, as required by Municipal Code § 4.95, before committing to sell public
7 property at a (then) 50% discount for a private ballpark project; and committed an illegal
8 expenditure of public funds and property in violation of CEQA, Municipal Code § 4.95,
9 and the Redevelopment Law.

10 25. The administrative record in Case No. 111-CV-214916 has been prepared
11 and the case remains pending in this Court with a trial date of November 8, 2013.
12 However, pursuant to stipulation of the parties and Order of the Court dated June 5, 2013,
13 the briefing schedule in Case No. 111-CV-214916 was stayed pending the outcome of
14 Respondents' re-transfer of the Diridon Property to the Successor Agency pursuant to the
15 State Controller's Report, and the recent actions of the Successor Agency and the Oversight
16 Board in respect to said re-transfer, which actions are now the subject of the instant petition
17 and complaint.

18 **The State Controller's Order That Respondents Reverse the Transfer**
19 **of the Diridon Property and Return It to the Successor Agency**

20 26. Health & Safety Code § 34161 provides that "commencing on the effective
21 date of this part, no agency shall incur new or expand existing monetary or legal obligations
22 except as provided in this part. All of the provisions of this part shall take effect and be
23 operative on the effective date of the act adding this part." The effective date of the act
24 adding Health & Safety Code, division 24, parts 1.8 (Restrictions on Redevelopment
25 Agency Operations) and 1.85 (Dissolution of Redevelopment Agencies and Designation of
26 Successor Agencies) was June 28, 2011. Part 1.8's purpose is to preserve redevelopment
27 agency assets and revenues for use by "local governments to fund core governmental
28 services including police and fire protection services and schools" (Health & Safety Code

1 § 34167(a), emphasis added) that do not include a private ballpark.

2 27. Commencing on the effective date of the new Redevelopment Law,
3 redevelopment agencies were “unauthorized and shall not take any action to incur
4 indebtedness, including . . . [p]ledge or encumber, for any purpose, any of its revenues or
5 assets,” which include real property. Health & Safety Code § 34162(a)(6). “Any actions
6 taken that conflict with this section [§ 34162] are void from the outset and shall have no
7 force or effect.” *Id.* § 34162(b). As of the same date, an agency further “shall not have the
8 authority to, and shall not . . . [e]nter into contracts with, incur obligations, or make
9 commitments to, any entity, whether governmental, tribal, or private, or any individual or
10 groups of individuals for any purpose”; “[d]ispose of assets” including real property; or
11 “[t]ransfer, assign, vest, or delegate any of its assets.” *Id.* § 34163(b), (d), (f). During the
12 same time period, agencies are further prohibited from approving, directing or causing the
13 approval of any program, project, or expenditure where approval is not required by law and
14 from providing or committing to provide financial assistance. *Id.* § 34164(d), (m).

15 28. With respect to transfers of redevelopment agency assets, Health & Safety
16 Code § 34167.5 provides:

17 “Commencing on the effective date of the act adding this part, the
18 Controller shall review the activities of redevelopment agencies in
19 the state to determine whether an asset transfer has occurred after
20 January 1, 2011, between the city or county, or city and county that
21 created a redevelopment agency or any other public agency, and the
22 redevelopment agency. If such an asset transfer did occur during
23 that period and the government agency that received the assets is not
24 contractually committed to a third party for the expenditure or
25 encumbrance of those assets, to the extent not prohibited by state and
26 federal law, the Controller shall order the available assets to be
27 returned . . . on or after October 1, 2011, to the successor agency . . .
28 Upon receiving that order from the Controller, an affected local
agency shall, as soon as practicable, reverse the transfer and return
the applicable assets to the . . . successor agency . . . The Legislature
hereby finds that a transfer of assets by a redevelopment agency
during the period covered in this section is deemed not to be in the
furtherance of the Community Redevelopment Law and is thereby
unauthorized.”

27 29. In March 2011, the San Jose Redevelopment Agency transferred the Diridon
28 Property to the DDA in violation of these provisions of the Redevelopment Law. The DDA

1 then entered into the Option Agreement with AIG as of November 8, 2011, again in
2 violation of the Redevelopment Law.

3 30. These actions by Respondents were subject to the authority and review of
4 the State Controller. On or about March 21, 2013, the Successor Agency received the State
5 Controller's Report concluding the prior transfer of the Diridon Property by the
6 Redevelopment Agency was not an allowable transaction: "Pursuant to H&S Code section
7 34167.5, a redevelopment agency may not transfer assets to a city, county, city and county,
8 or any other public agency after January 1, 2011. Those assets should be turned over to the
9 Successor Agency for disposition in accordance with H&S Code section 34177(d) and (e).
10 . ." State Controller's Report at 6.

11 31. The Controller thus ordered that the Diridon Property be returned to the
12 Successor Agency: "The agencies named [], as recipients of the unallowable asset
13 transfers, are ordered to immediately reverse the transfers and to turn over the assets . . . to
14 the Successor Agency." State Controller's Report at 3 (emphasis added). The Controller
15 rejected Respondents' argument that the Property was timely and "contractually
16 committed" to AIG: "The [Diridon Property assets] were not contractually committed to a
17 third party prior to June 28, 2011. . . . *Ibid.* at 6 (emphasis added). Because the transfer
18 was unauthorized and ordered to be reversed, it was void *ab initio* and never became
19 enforceable or had legal effect. The Controller directed the Successor Agency, upon return
20 of the property, to properly dispose of it in accordance with Health & Safety Code §§
21 34177(d), (e) and 34181(a). *Ibid.* at 8, 11.

22 Respondents' Continued Violation of State and Local Law

23 32. Notwithstanding the State Controller's Order, and the clear force and effect
24 of the Redevelopment Law as alleged above, the agenda for the June 18, 2013 Joint
25 City/DDA/Successor Agency meeting recommended that the DDA adopt a resolution
26 authorizing the Executive Director to transfer the Property back to the Successor Agency,
27 with the illegal condition that the Property be transferred "subject to the terms and
28 provisions of the Option Agreement." Agenda at 28.

1 33. On June 18, 2013, the City Council (Resolution No. 76738) and the DDA
2 (Resolution No. 111.1) approved the re-transfer by the DDA of certain properties and assets
3 identified by the State Controller' Report, including the Diridon Property, back to the
4 Successor Agency. However, the DDA resolved that the Property would not be transferred
5 free and clear of the encumbrance of the invalid Option Agreement, but rather "subject to"
6 and encumbered by the Option Agreement, as if the Option Agreement constituted a
7 continuing and binding encumbrance on the Property. The Successor Agency in its
8 resolution mimicked the DDA and authorized the acceptance of the Property "subject to"
9 the terms and provisions of the Option Agreement (Resolution No. 7021). In addition,
10 prior to these actions, Respondents took no action to comply with CEQA or to provide for a
11 public vote, even though their actions constituted separate and additional public agency
12 approvals of the Ballpark Project.

13 34. On June 27, 2013, the Oversight Board included an agenda item to discuss
14 the asset transfers update report including the re-transfer of the Diridon Property from the
15 DDA to the Successor Agency "subject to" the Option Agreement. Through their counsel,
16 Petitioners appeared at the meeting and submitted written and oral comments in opposition
17 to the re-transfer of the Property subject to the Option Agreement. Despite a mandatory
18 duty under the Redevelopment Law and the State Controller's Report to review and reverse
19 the actions of the Successor Agency in accepting the re-transfer of the Property still
20 encumbered by the unenforceable Option Agreement with AIG, the Oversight Board
21 refused to take any action on the re-transfer.

22 35. Petitioners and Plaintiffs are informed and believe, and thereupon allege,
23 that the City and Successor Agency staff prepared the property transfer documents under
24 the above-referenced resolutions and recorded such instruments on or about July 2, 2013.

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FIRST CAUSE OF ACTION
(Writ of Mandate – Violation of Mandatory Duty
Under Redevelopment Law)

36. Petitioners incorporate herein by reference the allegations contained in paragraphs 1 through 35, inclusive.

37. The Oversight Board is required to direct the Successor Agency to “[c]ease performance in connection with and terminate all existing agreements that do not qualify as enforceable obligations.” Health & Safety Code § 34181(b). The Option Agreement does not qualify as an enforceable obligation pursuant to Redevelopment Law or any other law as heretofore alleged. *See, e.g.*, Health & Safety Code §§ 34179.5(b)(2) and 34171.

38. In addition, the Successor Agency is required to “[d]ispose of assets and properties of the former redevelopment agency as directed by the oversight board; provided, however, that the oversight board may instead direct the successor agency to transfer ownership of certain assets pursuant to subdivision (a) of Section 34181.” Health & Safety Code § 34177(e). Under Health & Safety Code § 34181(a), the Oversight Board “shall direct the successor agency” to “[d]ispose of all assets and properties of the former redevelopment agency.” Such disposal “shall be done expeditiously and in a manner aimed at maximizing value.” *Id.*

39. Both the Successor Agency and the Oversight Board failed to comply with, and have violated, these mandatory duties imposed under the Redevelopment Law. The Redevelopment Agency’s original transfer of the Diridon Property to the DDA in March 2011, and the subsequent grant of an Option Agreement on the Property by the DDA in November 2011, were both “unauthorized” actions taken in plain violation of the Redevelopment Law. Health & Safety Code § 34167.5. Pursuant to the State Controller’s Report and Health & Safety Code § 34167.5, the transfer of the Property to the DDA was void *ab initio* and the DDA had no authority to enter into the Option Agreement. A private party such as AIG obtains no rights in an Option Agreement approved by public agencies contrary to requirements of law. Furthermore, the re-transfer of the Property back to the

1 Successor Agency, purportedly subject to the Option Agreement, fails to fulfill the primary
2 purpose of the Redevelopment Law: to preserve and dispose of redevelopment assets and
3 revenues for use by local governments to fund core government services, such as fire
4 protection, police and schools. Instead, the Option Agreement would help develop and
5 fund a private ballpark project at a price far below fair market value.

6 40. Accordingly, Respondents have breached a mandatory duty to provide for
7 the transfer and disposition of the Diridon Property without the encumbrance of the Option
8 Agreement. The Option Agreement should be adjudged invalid and unenforceable, and an
9 injunction should be issued to prevent the sale and transfer of the Diridon Property to AIG
10 under the Option Agreement.

11 41. Other than the relief sought herein, Petitioners and Plaintiffs lack any plain,
12 speedy, or adequate remedy at law, and their interests will be irreparably harmed if the
13 Diridon Property remains subject to the terms and conditions of the Option Agreement in
14 whole or in part.

15 **SECOND CAUSE OF ACTION**

16 **(Writ of Mandate – Violation of Public Vote Requirement,**

17 **San Jose Municipal Code § 4.95)**

18 42. Petitioners incorporate herein by reference the allegations contained in
19 paragraphs 1 through 41, inclusive.

20 43. Respondents were required to comply with the public vote requirement
21 under San Jose Municipal Code § 4.95 before acting to keep the Option Agreement in effect
22 as an essential step in the development of the Ballpark Project.

23 44. Section 4.95 of the San Jose Municipal Code prohibits the use of tax dollars
24 in connection with the building of a sports facility, unless first approved by a majority vote
25 of San Jose voters. San Jose Municipal Code, § 4.95.010.

26 45. As previously alleged, the Redevelopment Agency began acquiring the
27 Diridon Property in 2005 and, over the next three years, spent more than \$25 million in
28 taxpayer funds to acquire these parcels. The Agency completed these acquisitions without

1 any public vote on the pretext that the acquired property could also be used for housing, "a
2 legitimate alternative use" to a ballpark. The Agency also committed to holding a public
3 vote "prior to the City Council making any decision as to a potential ballpark." Board
4 Memoranda, dated Nov. 8, 2005 and Feb. 28, 2006 (emphasis added).

5 46. Through the Option Agreement, Respondents attempted to foreclose any
6 possibility that the Diridon Property could be used for housing or any other non-ballpark
7 use. Approval of the Option Agreement was manifestly a "decision as to a potential
8 ballpark," as it requires that public property be used only for a baseball stadium.

9 47. Because the Option Agreement commits the taxpayer-funded Diridon
10 Property to exclusive use as a sports facility, including sale of the Property at a small
11 fraction of its fair market value, a public vote was required before the Option Agreement
12 could be approved. By re-transferring the Diridon Property still subject to the Option
13 Agreement without a prior public vote, Respondents again failed to obey a mandatory duty
14 required by law.

15 48. Accordingly, the Option Agreement should be adjudged invalid and an
16 injunction should be issued to prevent the sale and transfer of the Diridon Property to AIG
17 pursuant to the Option Agreement.

18 49. Other than the relief sought herein, Petitioners lack any plain, speedy, or
19 adequate remedy at law, and their interests will be irreparably harmed if the Diridon
20 Property remains subject to the terms and conditions of the Option Agreement in whole or
21 in part.

22 THIRD CAUSE OF ACTION

23 (Violation of CEQA, Pub. Res. Code § 21000, *et seq.*)

24 50. Petitioners incorporate herein by reference the allegations contained in
25 paragraphs 1 through 49, inclusive.

26 51. To the extent that Respondents were vested with any discretion in the re-
27 transfer of the Diridon property under the requirements of the Redevelopment Law and the

28

1 State Controllers' Report, they were required first to comply with CEQA by preparing and
2 certifying a legally adequate EIR for the Ballpark Project.

3 52. SFSJ commented in its June 26, 2013 letter to the Oversight Board that
4 Respondents' actions in re-transferring the Diridon Property to the Successor Agency
5 subject to the Option Agreement required the Successor Agency first to comply with
6 CEQA. However, Respondents' actions and resolutions adopted on June 18, 2013, fail to
7 provide for any compliance with CEQA. Respondents may not rely on the previous 2007
8 EIR and 2010 SEIR prepared for the Ballpark Project because they are inadequate as a
9 matter of law as alleged in Case No. 111-CV-214196.

10 53. SFSJ submitted written and oral comments to the Oversight Board objecting
11 to Respondents' lack of, and inadequacy of prior, environmental review.

12 54. Petitioners have provided written notice of the commencement of this action
13 to Respondents, in compliance with CEQA § 21167.5, and have included a copy of that
14 notice and proof of service as Exhibit A hereto.

15 55. Petitioners have served the Attorney General with a copy of this petition,
16 along with a notice of its filing, in compliance with CEQA § 21167.7, and have included
17 the notice and proof of service as Exhibit B hereto.

18 56. Petitioners do not have a plain, speedy, or adequate remedy at law and will
19 suffer irreparable injury due to the ensuing environmental damage that will be caused by
20 implementation of the Ballpark Project, and Respondents' violations of CEQA and other
21 laws, unless this Court grants the requested writ of mandate and injunctive relief requiring
22 Respondents to set aside the transfer of the Property subject to the Option Agreement and
23 other actions as alleged herein.

24 57. By failing to conduct the required environmental review under CEQA,
25 Respondents committed a prejudicial abuse of discretion, failed to proceed in the manner
26 required by law, and failed to support their actions and approvals with substantial evidence.

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FOURTH CAUSE OF ACTION

**(Violation of C.C.P. § 526a and Common Law Taxpayer Claim —
Unauthorized and Illegal Expenditure and Use of Property)**

58. Petitioners incorporate herein by reference the allegations contained in paragraphs 1 through 57, inclusive.

59. Code of Civil Procedure § 526a authorizes an action to obtain a judgment, restraining and preventing any illegal expenditure of or injury to public funds or property. The common law also recognizes a taxpayer action on similar grounds.

60. In approving the Option Agreement for sale of the Diridon Property for a fraction of its fair market value, and in retransferring the Diridon Property to the Successor Agency subject to that agreement, Respondents acted unlawfully and in violation of the Redevelopment Law, San Jose Municipal Code § 4.95, and CEQA, as heretofore alleged. Accordingly, the Option Agreement for the sale of the Diridon Property to AIG constitutes an unauthorized and illegal expenditure, use and transfer of the Property.

61. The approval of the Option Agreement, and the retransfer of the Diridon Property subject to that agreement, should be set aside and an injunction should be issued to prevent Respondents from carrying out, implementing or consummating the Option Agreement, or from otherwise selling or transferring the Diridon Property to AIG for the Ballpark Project.

62. Other than the relief sought herein, Petitioners lack any plain, speedy, or adequate remedy at law, and Petitioners' interests will be irreparably harmed if the Diridon Property remains subject to the terms and conditions of the Option Agreement in whole or in part.

PRAYER FOR RELIEF

WHEREFORE, Petitioners pray for judgment as set forth below:

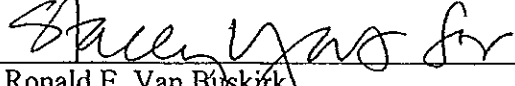
A. For a writ of mandate or peremptory writ issued under seal of this Court and directing Respondents to:

- 1 1. Set aside their transfer of the Property to the Successor Agency to the
- 2 extent that the transfer and Property remain subject to the Option
- 3 Agreement;
- 4 2. Transfer the Property to the Successor Agency free and clear of the
- 5 Option Agreement;
- 6 3. Refrain from granting any further approval for the sale or disposition
- 7 of the Diridon Property to AIG for use as a ballpark, including
- 8 encumbering the Property with the Option Agreement, unless and
- 9 until Respondents comply fully with the requirements of San Jose
- 10 Municipal Code § 4.95 and CEQA as directed by this Court.
- 11 B. For a declaratory judgment stating that Respondents' transfer of the Property
- 12 subject to the Option Agreement is void, invalid, and of no legal effect.
- 13 C. For entry of a preliminary and/or permanent injunction prohibiting
- 14 Respondents from carrying out, implementing or consummating the Option
- 15 Agreement, and prohibiting Respondents from otherwise selling or
- 16 transferring the Diridon Property to AIG for the Ballpark Project.
- 17 D. For an award to Petitioners' of their fees and costs, including reasonable
- 18 attorneys' fees, as authorized by Code of Civil Procedure § 1021.5, and any
- 19 other applicable provisions of law.
- 20 //
- 21 //
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- 25 //
- 26 //
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- 28 //

1 E. For such other legal and equitable relief as this Court deems appropriate and
2 just.

3 Dated: July 30, 2013.

4 PILLSBURY WINTHROP SHAW PITTMAN LLP
5 RONALD E. VAN BUSKIRK
6 BLAINE I. GREEN
7 STACEY C. WRIGHT
8 Four Embarcadero Center, 22nd Floor
9 Post Office Box 2824
10 San Francisco, CA 94126-2824

11 By 
12 Ronald E. Van Buskirk
13 Attorneys for Petitioners and Plaintiffs,
14 STAND FOR SAN JOSE, EILEEN
15 HANNAN, MICHELLE BRENOT,
16 ROBERT BROWN, and ROBERT
17 SHIELDS
18
19
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1 VERIFICATION

2 I, Michelle Brenot, declare:

3 I am a resident, voter, taxpayer, and property owner in the City of San Jose, and a
4 member and supporter of Stand for San Jose. I have read the foregoing VERIFIED
5 PETITION FOR WRIT OF MANDAMUS AND COMPLAINT FOR DECLARATORY
6 RELIEF AND INJUNCTIVE RELIEF AND FOR ATTORNEY'S FEES and know its
7 contents, and state that the matters alleged in the petition and complaint are true to the best
8 of my personal knowledge and belief.

9 I declare under penalty of perjury that the foregoing is true and correct.

10 Executed this 30th day of July, 2013, at San Jose, California.

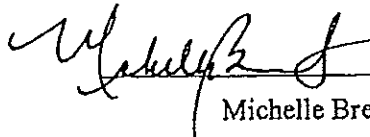
11
12 
13 _____
Michelle Brenot

EXHIBIT A

1 PILLSBURY WINTHROP SHAW PITTMAN LLP
2 RONALD E. VAN BUSKIRK (SBN 64683)
3 BLAINE I. GREEN (SBN 193028)
4 STACEY C. WRIGHT (SBN 233414)
5 Four Embarcadero Center, 22nd Floor
6 Post Office Box 2824
7 San Francisco, CA 94126-2824
8 Telephone: (415) 983-1000
9 Facsimile: (415) 983-1200

10 Attorneys for Petitioners and Plaintiffs,
11 STAND FOR SAN JOSE, EILEEN HANNAN,
12 MICHELLE BRENOT, ROBERT BROWN, and
13 ROBERT SHIELDS

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA

15 IN AND FOR THE COUNTY OF SANTA CLARA

16 STAND FOR SAN JOSE; EILEEN
17 HANNAN; MICHELLE BRENOT;
18 ROBERT BROWN; and ROBERT
19 SHIELDS,

20 Petitioners and Plaintiffs,

21 vs.

22 CITY OF SAN JOSE; CITY COUNCIL OF
23 THE CITY OF SAN JOSE; SUCCESSOR
24 AGENCY TO THE REDEVELOPMENT
25 AGENCY OF THE CITY OF SAN JOSE;
26 SUCCESSOR AGENCY OVERSIGHT
27 BOARD; DIRIDON DEVELOPMENT
28 AUTHORITY; DOES 1 through 10,
inclusive,

Respondents and Defendants.

ATHLETICS INVESTMENT GROUP LLC;
DOES 11 through 20, inclusive,

Real Parties in Interest.

Case No.

PETITIONERS' NOTICE OF CEQA
ACTION

Related to Case No. 111-CV-214196

[California Environmental Quality
Act, Pub. Res. Code § 21167.5]

1 To the City of San Jose, the City Council of the City of San Jose, Successor Agency
2 to the Redevelopment Agency of the City of San Jose, Successor Agency Oversight Board,
3 and the Diridon Development Authority ("DDA");

4 PLEASE TAKE NOTICE that, under Public Resources Code § 21167.5, on July 30,
5 2013, Petitioners and Plaintiffs, Stand for San Jose ("SFSJ"), Eileen Hannan, Michelle
6 Brenot, Robert Brown, and Robert Shields (collectively, "Petitioners"), intend to file a
7 petition under the provisions of the California Environmental Quality Act, Public Resources
8 Code § 21000 et seq. ("CEQA"), against Respondents and Defendants, the City of San Jose,
9 the City Council of the City of San Jose, Successor Agency to the Redevelopment Agency
10 of the City of San Jose, Successor Agency Oversight Board, and the Diridon Development
11 Authority ("Respondents"), challenging all actions and approvals taken at the June 18, 2013
12 joint City Council/DDA/Successor Agency meeting, when the DDA adopted Resolution
13 No. 111.1, and the Successor Agency adopted Resolution No. 7021, each providing that the
14 Diridon Property be transferred to the Successor Agency "subject to the terms and
15 provisions of the Option Agreement" At the same time, the City Council adopted
16 Resolution No. 76738 authorizing the transfer, but did not address the Option Agreement or
17 require the transfer of the entire fee interest unencumbered by the Option Agreement.
18 Thereafter, on June 27, 2013, the Oversight Board failed in its legal duty to overturn the
19 Successor Agency's improper acceptance of the Property subject to the Option Agreement,
20 an enforceable obligation.


21 In addition to violating the California Community Redevelopment Law, Health &
22 Safety Code §§ 33000, *et seq.* ("Redevelopment Law"), San Jose Municipal Code § 4.95
23 (requiring a public vote before the City participates, by using tax dollars, in developing a
24 sports facility), the State Controller's 2013 Asset Transfer Review Report, issued March 4,
25 2013 (the "State Controller's Report"), and other law, Respondents undertook no effort to
26 comply with CEQA before taking their actions in furtherance of the Ballpark Project.

27 The petition and complaint seeks a writ of mandate and declaratory relief requiring
28 compliance with CEQA and setting aside the actions described and further adjudging that

1 Respondents' transfer of the Diridon Property subject to the Option Agreement was
2 contrary to law, void, and of no legal effect; setting aside Respondents' transfer of the
3 Diridon Property to the extent it remains subject to the Option Agreement; ordering that
4 Respondents transfer the entire fee interest exclusive of and not subject to the Option
5 Agreement, as required under the Redevelopment Law; and permanently enjoining
6 Respondents from the sale of the Diridon Property to Athletics Investment Group LLC
7 pursuant to the Option Agreement.

8 Dated: July 30, 2013.

9 PILLSBURY WINTHROP SHAW PITTMAN
10 LLP
11 RONALD E. VAN BUSKIRK
12 BLAINE I. GREEN
13 STACEY C. WRIGHT
14 Four Embarcadero Center, 22nd Floor
15 Post Office Box 2824
16 San Francisco, CA 94126-2824

17 By 
18 Ronald E. Van Buskirk
19 Attorneys for Petitioners and Plaintiffs,
20 STAND FOR SAN JOSE,
21 EILEEN HANNAN, MICHELLE
22 BRENOT, ROBERT BROWN, and
23 ROBERT SHIELDS
24
25
26
27
28

PROOF OF SERVICE BY MAIL

I, Michael R. Wilson, the undersigned, hereby declare as follows:

1. I am over the age of 18 years and am not a party to the within cause. I am employed by Pillsbury Winthrop Shaw Pittman LLP in the City of San Francisco, California.
2. My business address is Four Embarcadero Center, 22nd Floor, P. O. Box 2824, San Francisco, CA 94126-2824.
3. I am familiar with Pillsbury Winthrop Shaw Pittman LLP's practice for collection and processing of correspondence for mailing with the United States Postal Service; in the ordinary course of business, correspondence placed in interoffice mail is deposited with the United States Postal Service with first class postage thereon fully prepaid on the same day it is placed for collection and mailing.
4. On July 30, 2013, at Four Embarcadero Center, 22nd Floor, P. O. Box 2824, San Francisco, California, I served a true copy of the attached document(s) titled exactly PETITIONERS' NOTICE OF CEQA ACTION by placing it/them in an addressed, sealed envelope clearly labeled to identify the person being served at the address shown below and placed in interoffice mail for collection and deposit in the United States Postal Service on that date following ordinary business practices:

Office of the City Clerk
Acting City Clerk Toni Taber
200 East Santa Clara Street
San Jose, CA 95113
tel. (408) 535-1260

I declare under penalty of perjury that the foregoing is true and correct. Executed this 30th day of July, 2013, at San Francisco, California.



Michael R. Wilson

EXHIBIT B

1 PILLSBURY WINTHROP SHAW PITTMAN LLP
2 RONALD E. VAN BUSKIRK (SBN 64683)
3 BLAINE I. GREEN (SBN 193028)
4 STACEY C. WRIGHT (SBN 233414)
5 Four Embarcadero Center, 22nd Floor
6 Post Office Box 2824
7 San Francisco, CA 94126-2824
8 Telephone: (415) 983-1000
9 Facsimile: (415) 983-1200

10 Attorneys for Petitioners and Plaintiffs,
11 STAND FOR SAN JOSE, EILEEN HANNAN,
12 MICHELLE BRENOT, ROBERT BROWN, and
13 ROBERT SHIELDS

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA

15 IN AND FOR THE COUNTY OF SANTA CLARA

16 STAND FOR SAN JOSE; EILEEN
17 HANNAN; MICHELLE BRENOT;
18 ROBERT BROWN; and ROBERT
19 SHIELDS,

20 Petitioners and Plaintiffs,

21 vs.

22 CITY OF SAN JOSE; CITY COUNCIL OF
23 THE CITY OF SAN JOSE; SUCCESSOR
24 AGENCY TO THE REDEVELOPMENT
25 AGENCY OF THE CITY OF SAN JOSE;
26 SUCCESSOR AGENCY OVERSIGHT
27 BOARD; DIRIDON DEVELOPMENT
28 AUTHORITY; DOES 1 through 10,
inclusive,

Respondents and Defendants.

ATHLETICS INVESTMENT GROUP LLC;
DOES 11 through 20, inclusive,

Real Parties in Interest.

Case No.

PETITIONERS' NOTICE TO THE
CALIFORNIA ATTORNEY GENERAL

Related to Case No. 111-CV-214196

[Code of Civil Procedure § 388; Public
Resources Code § 21167.7]

Lawsuit under the California
Environmental Quality Act

1 PLEASE TAKE NOTICE, pursuant to Code of Civil Procedure § 388 and Public
2 Resources Code § 21167.7, that on July 30, 2013, Petitioners and Plaintiffs, Stand for San
3 Jose ("SFSJ"), Eileen Hannan, Michelle Brenot, Robert Brown, and Robert Shields
4 (collectively, "Petitioners"), filed a petition under the provisions of the California
5 Environmental Quality Act, Public Resources Code § 21000 et seq. ("CEQA"), against
6 Respondents and Defendants, the City of San Jose, the City Council of the City of San Jose,
7 Successor Agency to the Redevelopment Agency of the City of San Jose, Successor
8 Agency Oversight Board, and the Diridon Development Authority ("Respondents"),
9 challenging all actions and approvals taken at the June 18, 2013 joint City
10 Council/DDA/Successor Agency meeting, when the DDA adopted Resolution No. 111.1,
11 and the Successor Agency adopted Resolution No. 7021, each providing that the Diridon
12 Property be transferred to the Successor Agency "subject to the terms and provisions of the
13 Option Agreement" At the same time, the City Council adopted Resolution No. 76738
14 authorizing the transfer, but did not address the Option Agreement or require the transfer of
15 the entire fee interest unencumbered by the Option Agreement. Thereafter, on June 27,
16 2013, the Oversight Board failed in its legal duty to overturn the Successor Agency's
17 improper acceptance of the Property subject to the Option Agreement, an enforceable
18 obligation.

19 In addition to violating the California Community Redevelopment Law, Health &
20 Safety Code §§ 33000, *et seq.* ("Redevelopment Law"), San Jose Municipal Code § 4.95
21 (requiring a public vote before the City participates, by using tax dollars, in developing a
22 sports facility), the State Controller's 2013 Asset Transfer Review Report, issued March 4,
23 2013 (the "State Controller's Report"), and other law, Respondents undertook no effort to
24 comply with CEQA before taking their actions in furtherance of the Ballpark Project.

25 The petition and complaint seeks a writ of mandate and declaratory relief requiring
26 compliance with CEQA and setting aside the actions described and further adjudging that
27 Respondents' transfer of the Diridon Property subject to the Option Agreement was
28 contrary to law, void, and of no legal effect; setting aside Respondents' transfer of the

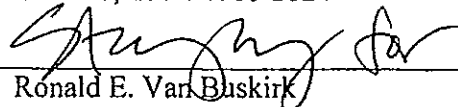
1 Diridon Property to the extent it remains subject to the Option Agreement; ordering that
2 Respondents transfer the entire fee interest exclusive of and not subject to the Option
3 Agreement, as required under the Redevelopment Law; and permanently enjoining
4 Respondents from the sale of the Diridon Property to Athletics Investment Group LLC
5 pursuant to the Option Agreement.

6 A copy of the Petition and Complaint is attached to this notice.

7 Dated: July 30, 2013.

8 PILLSBURY WINTHROP SHAW PITTMAN
9 LLP
10 RONALD E. VAN BUSKIRK
11 BLAINE I. GREEN
12 STACEY C. WRIGHT
Four Embarcadero Center, 22nd Floor
Post Office Box 2824
San Francisco, CA 94126-2824

13 By



14 Ronald E. Van Buskirk
15 Attorneys for Petitioners and Plaintiffs,
16 STAND FOR SAN JOSE,
EILEEN HANNAN, MICHELLE
BRENOT, ROBERT BROWN, and
ROBERT SHIELDS

PROOF OF SERVICE BY MAIL

I, Michael R. Wilson, the undersigned, hereby declare as follows:

1. I am over the age of 18 years and am not a party to the within cause. I am employed by Pillsbury Winthrop Shaw Pittman LLP in the City of San Francisco, California.
2. My business address is Four Embarcadero Center, 22nd Floor, P. O. Box 2824, San Francisco, CA 94126-2824.
3. I am familiar with Pillsbury Winthrop Shaw Pittman LLP's practice for collection and processing of correspondence for mailing with the United States Postal Service; in the ordinary course of business, correspondence placed in interoffice mail is deposited with the United States Postal Service with first class postage thereon fully prepaid on the same day it is placed for collection and mailing.
4. On July 30, 2013, at Four Embarcadero Center, 22nd Floor, P. O. Box 2824, San Francisco, California, I served a true copy of the attached document(s) titled exactly PETITIONERS' NOTICE TO THE CALIFORNIA ATTORNEY GENERAL by placing it/them in an addressed, sealed envelope clearly labeled to identify the person being served at the address shown below and placed in interoffice mail for collection and deposit in the United States Postal Service on that date following ordinary business practices:

Office of the Attorney General
455 Golden Gate, Suite 11000
San Francisco, CA 94102-7004
Phone: (415) 703-5500

I declare under penalty of perjury that the foregoing is true and correct. Executed this 30th day of July, 2013, at San Francisco, California.



Michael R. Wilson

COPY

1 PILLSBURY WINTHROP SHAW PITTMAN LLP
2 RONALD E. VAN BUSKIRK (SBN 64683)
3 BLAINE I. GREEN (SBN 193028)
4 STACEY C. WRIGHT (SBN 233414)
5 Four Embarcadero Center, 22nd Floor
6 Post Office Box 2824
7 San Francisco, CA 94126-2824
8 Telephone: (415) 983-1000
9 Facsimile: (415) 983-1200

10 Attorneys for Petitioners and Plaintiffs,
11 STAND FOR SAN JOSE, EILEEN HANNAN,
12 MICHELLE BRENOT, ROBERT BROWN, and
13 ROBERT SHIELDS

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 IN AND FOR THE COUNTY OF SANTA CLARA

16 STAND FOR SAN JOSE; EILEEN
17 HANNAN; MICHELLE BRENOT;
18 ROBERT BROWN; and ROBERT
19 SHIELDS,

20 Petitioners and Plaintiffs,

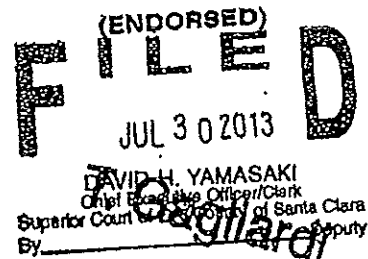
21 vs.

22 CITY OF SAN JOSE; CITY COUNCIL OF
23 THE CITY OF SAN JOSE; SUCCESSOR
24 AGENCY TO THE REDEVELOPMENT
25 AGENCY OF THE CITY OF SAN JOSE;
26 SUCCESSOR AGENCY OVERSIGHT
27 BOARD; DIRIDON DEVELOPMENT
28 AUTHORITY; DOES 1 through 10,
inclusive,

Respondents and Defendants.

ATHLETICS INVESTMENT GROUP LLC;
DOES 11 through 20, inclusive,

Real Parties in Interest.



Case No.

CEQA ACTION

PETITIONERS' NOTICE
REQUESTING PREPARATION OF
RECORD OF PROCEEDINGS

Related to Case No. 111-CV-214196

[California Environmental Quality
Act, Pub. Res. Code § 21167.6]

3
6

1 Under Public Resources Code § 21167.6, Petitioners and Plaintiffs, Stand for San
2 Jose ("SFSJ"), Eileen Hannan, Michelle Brenot, Robert Brown, and Robert Shields
3 (collectively, "Petitioners"), request that Respondents and Defendants, the City of San Jose,
4 the City Council of the City of San Jose, Successor Agency to the Redevelopment Agency
5 of the City of San Jose, Successor Agency Oversight Board, and the Diridon Development
6 Authority ("Respondents"), prepare the record of proceedings for all actions taken by
7 Respondents, or any of them, (1) related to the approvals and/or actions taken at the June
8 18, 2013 joint City Council/DDA/Successor Agency meeting where the DDA adopted
9 Resolution No. 111.1, and the Successor Agency adopted Resolution No. 7021, each
10 providing that the Diridon Property be transferred to the Successor Agency "subject to the
11 terms and provisions of the Option Agreement . . ." and the City Council adopted
12 Resolution No. 76738 authorizing the transfer; and (2) related to the Oversight Board's
13 actions on June 27, 2013 in failing to overturn the Successor Agency's acceptance of the
14 Property subject to the Option Agreement.

15 Petitioners request that Respondents include in the record all documents and
16 materials identified in CEQA § 21167.6(e), and any other documents or records relating to
17 Respondents' determinations and actions taken on June 18, 2013 and June 27, 2013, as
18 identified above.

19 //

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21 //

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24 //

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26 //

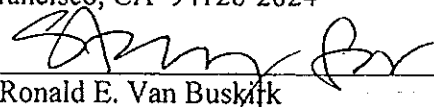
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1 Petitioners will pay the cost of preparation of the record on notice of the estimated
2 cost of payment.

3 Dated: July 30, 2013.

4 PILLSBURY WINTHROP SHAW PITTMAN
5 LLP
6 RONALD E. VAN BUSKIRK
7 BLAINE I. GREEN
8 STACEY C. WRIGHT
9 Four Embarcadero Center, 22nd Floor
10 Post Office Box 2824
11 San Francisco, CA 94126-2824

12 By 
13 Ronald E. Van Buskirk
14 Attorneys for Petitioners and Plaintiffs,
15 STAND FOR SAN JOSE,
16 EILEEN HANNAN, MICHELLE
17 BRENOT, ROBERT BROWN, and
18 ROBERT SHIELDS

COPY

1 PILLSBURY WINTHROP SHAW PITTMAN LLP
2 RONALD E. VAN BUSKIRK (SBN 64683)
3 BLAINE I. GREEN (SBN 193028)
4 STACEY C. WRIGHT (SBN 233414)
5 Four Embarcadero Center, 22nd Floor
6 Post Office Box 2824
7 San Francisco, CA 94126-2824
8 Telephone: (415) 983-1000
9 Facsimile: (415) 983-1200
10
11 Attorneys for Petitioners and Plaintiffs,
12 STAND FOR SAN JOSE, EILEEN HANNAN,
13 MICHELLE BRENOT, ROBERT BROWN, and
14 ROBERT SHIELDS
15

16 SUPERIOR COURT OF THE STATE OF CALIFORNIA
17 IN AND FOR THE COUNTY OF SANTA CLARA

18 STAND FOR SAN JOSE; EILEEN
19 HANNAN; MICHELLE BRENOT;
20 ROBERT BROWN; and ROBERT
21 SHIELDS,

22 Petitioners and Plaintiffs,

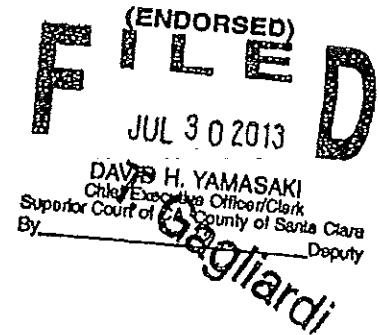
23 vs.

24 CITY OF SAN JOSE; CITY COUNCIL OF
25 THE CITY OF SAN JOSE; SUCCESSOR
26 AGENCY TO THE REDEVELOPMENT
27 AGENCY OF THE CITY OF SAN JOSE;
28 SUCCESSOR AGENCY OVERSIGHT
BOARD; DIRIDON DEVELOPMENT
AUTHORITY; DOES 1 through 10,
inclusive,

Respondents and Defendants.

ATHLETICS INVESTMENT GROUP LLC;
DOES 11 through 20, inclusive,

Real Parties in Interest.



Case No.

NOTICE OF RELATED CASE

Related to Case No. 111-CV-214196

[Rule of Court 3.300]

1 Pursuant to Rule 3.300 of the California Rules of Court, Petitioners and Plaintiffs,
2 Stand for San Jose ("SFSJ"), Eileen Hannan, Michelle Brenot, and Robert Brown, and
3 Robert Shields (collectively, "Petitioners"), give notice of the following related case: Stand
4 for San Jose, et al. v. City of San Jose, et al. ("SFSJ I"), Santa Clara County Superior Court
5 Case No. 111-CV-214196, assigned to the Honorable Joseph Huber, Department 21
6 (original filing date December 2, 2011).

7 The instant action ("SFSJ II") is related to SFSJ I because both cases involve many
8 of the same parties, including Petitioners (Stand for San Jose, et al.), Respondents (City of
9 San Jose, et al.),¹ and Real Party in Interest (Athletics Investment Group), and are based on
10 the same or similar claims. SFSJ I arises from Respondents' actions taken in 2011 in
11 furtherance of a ballpark project in downtown San Jose, in violation of the California
12 Community Redevelopment Law, Health & Safety Code §§ 34161, *et seq.*, San Jose
13 Municipal Code § 4.95 (requiring a public vote before the City participates, by using tax
14 dollars, in developing a sports facility), the California Environmental Quality Act (Public
15 Resources Code §21000, *et seq.* ("CEQA")), and Code of Civil Procedure § 526a
16 (prohibiting the illegal expenditure of public funds, or illegal sale or use of public property).
17 The instant action arises from new and additional actions taken by Respondents in June
18 2013, in continued furtherance of the downtown ballpark project, in violation of the same
19 statutes violated by Respondents in 2011.

20 At the center of both SFSJ I and SFSJ II are allegations that Respondents have
21 unlawfully encumbered certain publicly-owned property (the "Diridon Property") with an
22 unenforceable Option Agreement that purports to commit the City to sell the subject
23 property at a price far below market value to the Athletics Investment Group for purposes
24 of a private downtown baseball stadium. The instant action is directed to additional steps
25 taken by Respondents since SFSJ I was filed, in Respondents' continued efforts to maintain
26

27 ¹ Certain additional City agencies are added in this action: the Successor Agency to the
28 Redevelopment Agency of the City of San Jose, and the Successor Agency Oversight
Board.

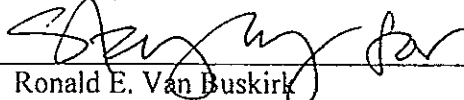
1 the encumbrance of the Option Agreement on the Diridon Property contrary to law. SFSJ I
2 and SFSJ II thus involve claims relating to the same property and require the determination
3 of the same or substantially identical questions of law and fact.

4 Accordingly, the two actions are related within the meaning of CRC Rule 3.300, and
5 Petitioners request that this case be coordinated with SFSJ I, currently assigned to the
6 Honorable Joseph Huber.

7 Dated: July 30, 2013.

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